IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 499 Of 2004

IN

SUMMARY SUIT NO. 430 Of 2004

Ramdas V. Mari .. Plaintiff

versus

Prem D. Sachchtanandani & Anr. .. Defendants

...

Mr.H. Toor i/b D.H. Mishra for the plaintiff.

Mr.D.H. Shah for the defendant no.1.

CORAM : D.G. KARNIK,J.

DATED : 29th March 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. This Summons for Judgement is taken out by the plaintiff in a suit for recovery of money allegedly advanced to the defendant under a bill of exchange. By filing an affidavit in reply, the defendant has contended that he does not know the plaintiff. In

paragraph no.11 of the affidavit in reply, he has denied execution of the bill of exchange in favour of the plaintiff.

3. In view of the denial of the transaction in toto and denial of the execution of the bill of exchange, it cannot be said that the defendant has no defence. Unless and until the original bill of exchange is produced in the Court and proved in accordance with law, the plaintiff would not be entitled to a decree.

4. In the circumstances, the defendant is granted unconditional leave to defend the suit. The suit shall stand transferred to the list of commercial causes.

5. The defendant shall file written statement within a period of four weeks.

D.G. KARNIK, J